

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

COURTNEY PREALOW	*	CIVIL ACTION NO.
	*	
	*	DISTRICT JUDGE
VERSUS	*	
	*	
PROTECTIVE INSURANCE COMPANY*	*	MAGISTRATE JUDGE
MPS TRANSPORTATION, INC.,	*	
FEDEX GROUND PACKAGE SYSTEM,*	*	
INC and GARY ROBINSON	*	

NOTICE OF REMOVAL

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

NOW INTO COURT, through undersigned counsel, come Defendants, FedEx Ground Package System, Inc. and Protective Insurance Company, which respectfully aver as follows:

1.

On or about December 28, 2021, Plaintiff, Courtney Prealow, filed a Petition for Damages in the 4th Judicial District Court for the Parish of Ouachita, State of Louisiana, naming Protective Insurance Company, MPS Transportation, Inc., FedEx Ground Package System, Inc. and Gary Robinson as Defendants. That suit bears docket number C-20213854, was assigned to Division "C", and is captioned "*Courtney Prealow v. Protective Insurance Company, MPS Transportation, Inc., FedEx Ground Package*

System, Inc. and Gary Robinson". A copy of the Petition for Damages is attached hereto as Exhibit "A".

2.

Service of the Petition for Damages was requested on Protective Insurance Company, through the Louisiana Secretary of State, and Protective Insurance Company was served on or about January 11, 2022.

3.

Service of the Petition for Damages was requested on FedEx Ground Package System, Inc. through the CT Corporation and FedEx Ground Package System, Inc. was served on or about January 11, 2022.

4.

Service of the Petition for Damages was requested on MPS Transportation, Inc. through the Louisiana Long Arm Statute. As of the date of the filing of this Notice of Removal, MPS Transportation, Inc. has not yet been served. Undersigned counsel will represent MPS Transportation, Inc. if and when it is properly served. Without waiving the formal requirements of this service of process, MPS Transportation, Inc. consents to and joins in this Notice of Removal.

5.

Service of the Petition for Damages was requested on Gary Robinson through the Louisiana Long Arm Statute. As of the date of the filing of this Notice of Removal, Gary Robinson has not yet been served. Undersigned counsel will represent Gary Robinson. if and when it is properly served. Without waiving the formal requirements of this service of process, Gary Robinson consents to and joins in this Notice of Removal.

6.

It was not facially apparent from the Petition for Damages that the case was removable pursuant to 28 U.S.C § 1331. Specifically, it was not facially apparent from the Petition for Damages that the amount in controversy exceeded \$75,000, exclusive of interest and costs, as is required for removal under diversity of citizenship. The Petition for Damages was silent, or at best, its allegations were vague and ambiguous with respect to the amount in controversy. See attached Exhibit “A”. Although Plaintiff’s Petition for Damages alleged that her damages exceeded the alleged jury threshold of \$10,000, there was no specific allegation as to whether the amount in controversy exceeded the sum of \$75,000, exclusive of interest and costs, as required by Article 893 of the Louisiana Code of Civil Procedure.

7.

On or about February 1, 2022, Defendants filed a Dilatory Exception of Vagueness, Ambiguity and Non-Conformity of Petition, seeking to have Plaintiff ordered to amend her Petition for Damages to specifically allege whether her claims exceed the requisite amount to invoke the jurisdiction of the federal courts, as is required by Louisiana Code of Civil Procedure Article 893. See attached Exhibit “B”.

8.

On or about February 16, 2022, undersigned counsel was served with Plaintiff’s Response to Defendants Request for Admissions, in which, for the first time, she admitted that she was claiming damages in excess of \$75,000, exclusive of interest and costs. See attached Exhibit “C”.

9.

On or about January 7, 2022, undersigned counsel was served with Plaintiff's Response to Request for Admissions, in which, for the first time, she admitted that she was claiming damages in excess of \$75,000, exclusive of interest and costs. See attached Exhibit "C".

10.

Based upon the allegations of Response to Request for Admission, it is clear that the amount in controversy exceeds \$75,000, exclusive of interest and costs.

11.

This Notice of Removal is filed within thirty (30) days of service of the Plaintiff's Response to Defendant's Request for Admissions, which was the first paper from which it could be ascertained that the case was removal, and is therefore timely.

12.

Plaintiff, Courtney Prealow, is a citizen of the State of Louisiana. (See attached Exhibit "A", Plaintiff's Petition for Damages).

13.

Defendant, Gary Robinson, is a citizen of the State of Ohio. (See attached hereto as Exhibit "A", Plaintiff's Petition for Damages).

14.

Defendant, Protective Insurance Company, is a foreign insurance company incorporated under the laws of the State of Indiana and having its principal place of business in the State of Indiana. (See attached Exhibit "D", corporate information from Louisiana Department of Insurance.)

15.

Defendant, MSP Transportation, Inc., is a foreign insurance company incorporated under the laws of the State of Florida and having its principal place of business in the State of Florida. (See attached Exhibit “E”, corporate information from the Florida Secretary of State.)

16.

Defendant, FedEx Ground Package System, Inc., is a corporation incorporated under the laws of the State of Delaware and having its principal place of business in the State of Pennsylvania. (See attached Exhibit “F,” document from Louisiana Secretary of State).

17.

Accordingly, there is complete diversity of citizenship between the Plaintiff and all named defendants. As of the date of the filing of this Notice of Removal, Plaintiff has not named any other defendants.

18.

In accordance with the foregoing, this is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332(a) and is one which may be removed to this Court by Defendants pursuant to 28 U.S.C. § 1441, in that it is a civil action wherein the amount in controversy exceeds \$75,000, exclusive of interest and costs, and is between citizens of different states.

19.

In accordance with 28 U.S.C. § 1446(d), Defendants will provide appropriate notice of this removal to the parties, and to the Clerk of Court for the 4th Judicial District Court for the Parish of Ouachita, State of Louisiana.

JURY DEMAND

Defendants are entitled to and request trial by jury on all issues herein.

WHEREFORE, Defendants, FedEx Ground Package System, Inc. and Protective Insurance Company, pray that the action entitled “*Courtney Prealow v. Protective Insurance Company, MPS Transportation, Inc., FedEx Ground Package System, Inc. and Gary Robinson*”, bearing docket number C-20213854, was assigned to Division “C” of the 4th Judicial District Court for the Parish of Ouachita, State of Louisiana, be removed from that State Court docket to the United States District Court for the Western District of Louisiana.

Respectfully submitted,

/s/ Raymond Augustin, Jr.

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***Attorneys for Defendants, FedEx Ground
Package System, Inc. and Protective
Insurance Company***

CERTIFICATE OF SERVICE

I hereby certify that the foregoing pleading has been delivered to all counsel of record, either through the CM/ECF system, depositing a copy of same in the United States mail, first class postage prepaid, by hand delivery or by facsimile transmission, this 18th day of March, 2022, at their last known address of record.

/s/ Raymond P. Augustin, Jr.

RAYMOND P. AUGUSTIN, JR.